

The opinion in support of the decision being entered today
was **not** written for publication in and
is **not** binding precedent of the Board.

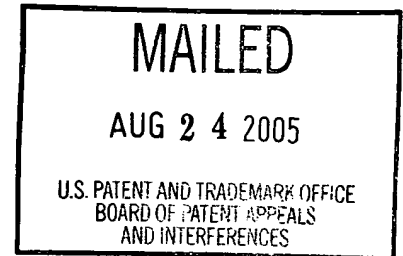
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL NORMAN BURGESS

Appeal No. 2005-1591
Application No. 09/366,896

ON BRIEF



Before HAIRSTON, BARRY, and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claims 1 through 12 and 19 through 26 which constitute all the claims remaining in the application. For the reasons stated *infra* we will not sustain the examiner's rejection of these claims.

THE INVENTION

The invention relates to a system for assigning phone numbers where phone numbers are not assigned to some communication devices or phone lines. A unique equipment identifier is assigned to either a communication device or a communication line, however, no telephone number is associated to the device or line. Thus the line or device cannot receive incoming calls. The equipment

identifier is used to facilitate outgoing calls. See page 2 of appellant's specification. The invention thus reduces the number of telephone numbers needed in the country. See page 1 of appellant's specification.

Claim 1 is representative of the invention and reproduced below:

1. A method for assigning a telephone number to a communications device or line comprising the steps of:

A) assigning a unique equipment identifier to the communication device or line;

B) associating the unique equipment identifier with a telecommunications network such that an outgoing call may be originated from the communications device or line that has the unique equipment identifier; and

C) omitting association of a telephone number with the unique identifier, thereby inhibiting incoming calls to the communications device or line by lack of a telephone number being associated therewith.

THE REFERENCES

The references relied upon by the examiner are:

Fougnyes et al. (Fougnyes)	5,722,067	Feb. 24, 1998
Leskinen	6,085,081	Jul. 4, 2000 (filed Jan. 30, 1998)
Fukuzawa et al. (Fukuzawa)	6,327,353	Dec. 4, 2001 (filed Oct. 15, 1998)

THE REJECTIONS AT ISSUE

Claims 1, 5, 9, 11 and 12 stand rejected under 35 U.S.C. § 103 as being obvious over Leskinen. Claims 2 through 4, 6 through 8 and 10 stand rejected under 35 U.S.C. § 103 as being obvious over Leskinen in view of Fougnyes.

Claim 8 stands rejected under 35 U.S.C. § 103 as being obvious over Leskinen

in view of Fukuzawa. On page 4 of the Final Rejection and page 5 of the answer, the examiner states "With respect to claims 19-26 such claims **would** be rejected in a like manner to the claims above" (emphasis added). Such a tentative rejection is improper. Normally we would either; remand the application to the examiner to properly identify any rejections against the claims or dismiss the appeal of these claims as the status of whether they are rejected is uncertain and the basis of the rejection is uncertain. However, in the interest of expediency and fairness to the appellant and because the appellant has recognized the inadequacy of the rejection and presented convincing arguments as to why all of the rejections presented by the examiner would be inapplicable to claims 19-26, we render a decision on these claims. Throughout, the opinion we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellant and the examiner, for the

reasons stated *infra* we will not sustain the examiner's rejection of claims 1 through 12 and 19 through 26 under 35 U.S.C. § 103.

Appellant asserts, on page 5 of the brief:

Leskinen discloses a method and apparatus for temporarily assigning a user identification to a mobile telephone user. That is, a user identification is dynamically allocated upon setting up a connection. According to the teachings of Leskinen, a mobile station is allocated a temporary user identification. That user identification is used to place calls over the wireless network. Leskinen is silent on whether incoming calls may be received by the mobile station using the temporary identification. Although, the receipt of the incoming call is implied.

Further, appellant argues that the passages of Leskinen relied upon by the examiner to show that the device cannot receive calls do not support the examiner's assertion that Leskinen's device does not receive calls. On page 2 of the reply brief, appellant asserts that Leskinen "clearly indicates that the mobile station 1, which does not have a user identification, receives incoming calls" citing column 11, lines 48-51. On page 6 of the brief, appellant asserts that independent claim 1 contains a limitation of omitting association of a telephone number with the device or line thereby inhibiting incoming calls and that independent claims 11 and 12 contain similar limitations.

In response, on pages 6 and 7 of the answer, the examiner states:

Appellant is correct in that the reference, U.S. Patent No. 6,085,081 (Leskinen), does not explicitly disclose assigning telephone numbers or associating a telephone number with the equipment identification. The reference is also silent about receiving any incoming calls. With respect to

the former, such is explained above¹. With respect to the latter argument, the examiner explained in the Final Office Action that it is true that Leskinen does not explicitly teach or disclose inhibiting incoming calls, but such can be inferred from a fair reading of Leskinen. One teaching of Leskinen is to have a phone that one seldom uses and one that allows a user to switch teleoperators when desired and to be unidentified to a Network. Also note that whatever ID is given such [sic] is temporary (Col. 3, lines 5-18 and lines 22-27). How could one make an incoming call under these conditions? A caller to the user would not know the user's telephone number. Even if a user gave the caller a number to call-back (which does not appear to be possible) the invention could still be said to inhibit calls. That is, if a caller had somehow gotten a number to the device, he would have to make a call before the user changed the ID or changed teleoperators. . . . For example, if a user using the Leskinen device misdialed and got a wrong number, the user's number would not show a caller ID at the wrongly called device. Even if a caller ID was shown at the wrongly called device, and a user has the ability to change his ID and teleoperators dynamically, would not this inhibit incoming calls? Therefore, how could someone call the Leskinen device which continuously change operators and IDs? Which operator/ company would handle the incoming call?

While we find the examiner's argument compelling, we concur with the appellant and find that Leskinen does not render independent claims 1, 11 and 12 obvious. Claim 1 contains the limitations "associating the unique equipment identifier with a telecommunications network" and "omitting association of a telephone number with the unique identifier, thereby inhibiting incoming calls to the communications device or line by lack of telephone number being associated therewith." Thus, we find that the scope of claim 1 is that there are at least two numbers which can be associated with the line or device, a unique identifier and a telephone number, and that by omitting the assignment of the telephone

¹ In the "above" section the examiner expressed concern over the preamble of claim 1 which states a method of assigning phone numbers but the body of the claim does not discuss assignment of a phone number.

number for incoming calls, calls not originating from the device or line, are inhibited. Independent claims 11, and 12 contain similar limitations.

We find that Leskinen teaches a wireless network where some mobile, wireless, phones are assigned temporary user identification. See abstract and column 3, lines 22-30. Leskinen's discussion of the operation of the wireless network, in columns 4 through 8, focuses on how the system operates making outgoing calls. However, as the appellant's point out in the reply brief, Leskinen teaches in column 11, lines 48-51, the system can be used to receive calls.

Thus, we are unconvinced by the examiner's argument that a fair reading of Leskinen is that it teaches that incoming calls are inhibited. Further, we find no discussion in Leskinen of a phone number associated with the wireless device. As stated *supra* the claims identify two types of numbers associated with the device, the identification number and the telephone number. The examiner's reasoning does not differentiate between the two. In the examiner's hypothetical a phone number is assigned temporarily assigned to the phone with the temporary ID, however, we find that the hypothetical is not supported by the disclosure of Leskinen and even if it were, the hypothetical example does not meet the claim, as in the examiner's hypothetical example a phone number is assigned to the phone. Accordingly, we will not sustain the examiner's rejection of claims 1, 5, 9, 11, and 12 under 35 U.S.C. § 103 as being obvious over Leskinen.

We next consider the rejection of claims 2 through 4, 6 through 8 and 10 under 35 U.S.C. § 103 as being obvious over Leskinen in view of Fournies. Claims 2 through 4, 6 through 8 and 10 all depend upon claim 1. As stated *supra* we do not find that Leskinen teaches or would have suggested at least two numbers which can be associated with the line or device, a unique identifier and a telephone number, and that by omitting the assignment of the telephone number incoming calls, calls not originating from the device or line, are inhibited. The examiner does not assert, nor do we find that Fournies teaches or would have suggested modifying Leskinen to include such a limitation. Accordingly, we will not sustain the examiner's rejection of claims 2 through 4, 6 through 8 and 10 under 35 U.S.C. § 103 as being obvious over Leskinen in view of Fournies.

Next we consider the rejection of claim 8 under 35 U.S.C. § 103 as being obvious over Leskinen in view of Fukuzawa. Claim 8 depends upon claim 1. As stated *supra* we do not find that Leskinen teaches or suggests at least two numbers which can be associated with the line or device, a unique identifier and a telephone number, and that by omitting the assignment of the telephone number incoming calls, calls not originating from the device or line, are inhibited. The examiner does not assert, nor do we find that Fukuzawa teaches or would have suggested modifying Leskinen to include such a limitation. Accordingly, we will not sustain the examiner's rejection of claim 8 under 35 U.S.C. § 103 as being obvious over Leskinen in view of Fukuzawa.


Finally, we consider the rejection of claims 19 through 26 under 35 U.S.C. § 103. As stated *supra*, it is not clear from the final rejection or the examiner's answer whether the examiner is rejecting these claims under 35 U.S.C. § 103 as being obvious over Leskinen or over Leskinen in combination with either Fougnyes or Fukuzawa. Independent claim 19 includes the limitations of "assigning a unique identifier to the communication line" and "omitting association of a telephone number with the unique equipment identifier to inhibit incoming calls to the communications line." Thus, we consider claim 19 to include similar limitations to those discussed *supra* with respect to claim 1. As stated *supra* we do not find that Leskinen alone or in combination with either Fougnyes or Fukuzawa teach the limitation of at least two numbers which can be associated with the line or device, a unique identifier and a telephone number, and that by omitting the assignment of the telephone number incoming calls, calls not originating from the device or line, are inhibited. Accordingly, we will not sustain the rejection of claims 19 through 26 under 35 U.S.C. § 103 as being obvious over Leskinen or over Leskinen in combination with either Fougnyes or Fukuzawa.

CONCLUSION

We will not sustain the examiner's rejection of claims 1 through 12 and 19 through 26 under 35 U.S.C. § 103.

REVERSED


KENNETH W. HAIRSTON
Administrative Patent Judge


LANCE LEONARD BARRY
Administrative Patent Judge


ROBERT E. NAPPI
Administrative Patent Judge

**BOARD OF PATENT
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